

**GENOA TOWNSHIP
ZONING BOARD OF APPEALS
October 13th, 1998**

MINUTES

A regular meeting of the Zoning Board of Appeals was called to order by Chairman Staley at 7:00 p.m. at the new Genoa Township Hall. The following board members were present constituting a quorum for the transaction of business: Rick Staley, Barbara Figurski, Nancy Litogot, Robert Murray and Chris Hensick. Also present were Township Manager Mike Archinal, and approximately thirteen persons in the audience.

Moved by Figurski, supported by Litogot, to approve the Agenda as presented. The motion carried. A call to the public was made with no response.

1. *Discussion of request by Robert Jones, Lot 41, Webster Park Subdivision, for a special use for riparian use on a non- riparian lot.*

Attorney Dale Cooper spoke on behalf of Wallace Haley (attorney for Mr. and Mrs. Littman). Cooper – According to your Township Manager and supported by your Township Attorney, a special use permit is not required for the Jones petition. It is the task of the Zoning Board of Appeals to clarify the Township Zoning Ordinance. According to Wallace R. Haley, an attorney for the Littmans and the Pardee Lake Homeowner's Association, this action sets a dangerous precedent in which any riparian lot owner can grant access to a non-riparian lot owner simply by granting an easement to that non-riparian lot owner. It is our belief that Mr. Archinal misreads the intent section of the Keyholing Ordinance. Further, your planner, Jeffrey R. Purdy of The Strader Group states in his letter of August 10, 1998, "Common use of a riparian lot to provide boat access requires a special land use permit from the Township Board, with a recommendation from the Planning Commission."

Murray – There are conflicting legal problems here that need to be resolved by the individuals involved. There is some question concerning the validity of the second recorded easement. Hensick – There is no definition in the ordinance for "group". The argument made by Mr. Haley is that the individuals in this instance are a formal group.

A call to the public was made with the following response: Byron Rogers (President of the Pardee Lake Homeowners Association) – Lots 56, 57, 40 and 41 are owned by one person. Our association is concerned with the possibility of setting a precedent of allowing non-riparian property to acquire riparian rights in the future. Hensick – There are three different parties who have access to lot 41. There are multiple interests on that single lot. We may have a drafting problem with our ordinance. We don't clearly state in our ordinance that this request does not apply. This is the kind of access that should be regulated.

Elizabeth Swift – Are you saying that a single lot could grant as many easements as they wish? Murray - The 1993 easement predates our ordinance. Cooper - This oversight would provide a method to circumvent the township ordinance. In this instance we have multiple parties using that easement. The Township Ordinance should address that specific situation.

Litogot read the declaration of easement from 1996. It appears that additional information was provided to the Planning Commission that was not provided to the Zoning Board of Appeals. Staley – I don not have enough detail to make a decision this evening.

Moved by Murray, supported by Figurski, to table the petition until the next regular meeting of the ZBA. The motion carried unanimously.

2. *98-31...A request by Michael and Jan Pozan, 4022 Aster Blvd., Howell, Section 04, for a privacy fence 6' high to enclose their yard.(Tabled from September 8, 1998 meeting)*

Case 98-31 was called with no response. Moved by Murray, supported by Figurski, to dismiss the petition. The motion carried unanimously.

3. *98-42...A request by Paul Siupik, 3671 Cresthill, Brighton, Section 22, for a 20' side variance and a second side variance of 3' to build a new home. (Tabled from September 8, 1998 meeting)*

A call to the public was made with no response. Moved by Hensick, supported by Murray, to grant the following variances: 5.8' to the east side, 8.26' to the west side and 8.12' to the road side (front) according to the plans submitted to allow the preservation of the 26" existing tree. The hardship is the configuration of a lot that is long and narrow. The motion carried unanimously.

4. *98-43...A request by Richard Oberliesen, 6511 Forest Beach Dr., Brighton, for a 23' side variance to remodel a home.(Tabled from September 8, 1998 meeting)*

A call to the public was made with the following response: Elizabeth Swift – Why is this petition called a remodeling job? Murray – The petition asks for removal of the existing home to construct a new one. Moved by Murray, supported by Hensick, to approve a 199' (19.9') variance to the north and a 24.9' variance to the south with the new construction being built with gutters to retain all water on the petitioner's property. The hardship is the narrowness for the lot and the reuse of the same building size. The motion carried unanimously.

*Correction
per
Billy
Hastan*

5. *98-45...A request by Lawrence Tabaka, 3800 Brighton Road, Brighton, for a 33' rear variance to build a home.*

A call to the public was made with no response. A letter was received from Bart Wellman voicing no objection to the petition. Moved by Figurski, supported by Murray, to approve an accessory building in the front yard and a 30' rear yard variance to build a new home and a pole barn. The hardship is the unusual grade of

the property and the effort to preserve the existing mature trees. The motion carried unanimously.

6. 98-47... *A request by Joyce Dressler, 6455 Herbst Road, Section 14, to change zoning from rural residential to low density residential to build a home.*

A call to the public was made with no response. Moved by Figurski, supported by Hensick, to table the request to allow the petitioner time to review a split of the property into two parcels. The motion carried.

7. 98-48...*A request by Rodney Sindlinger, 387 Ventnor Lane, Section 06, for a 5' variance to build a garage.*

A call to the public was made with no response. Moved by Murray, supported by Hensick, to approve a 1' variance to the west side and a 4' variance between the detached garage and the existing structure, with the understanding that the Livingston County Building Dept. may require the garage to be attached to reduce the chance of fire hazard. The hardship is the existing location of the home that precludes the garage being placed in another location. The motion carried unanimously.

8. 98-50...*A request by Marilyn LewAllen, 4770 Golf Club Road, Section 04, for a side variance.*

A call to the public was made with no response. Moved by Hensick, supported by Figurski, to approve a variance of 27.2' for the existing garage and a 10' variance for the existing barn to allow the split of property that would be in the best interest of the township that would have easily identifiable boundaries. The motion carried as follows: Ayes – Staley, Figurski, Litogot and Hensick. Nay – Murray.

9. 98-51...*A request by Richard Maccini, 46848 Pickford, Section 15, for a variance to be closer to water than what ordinance requires.*

A call to the public was made with no response. Moved by Hensick, supported by Figurski, to approve a 55' variance to the spring fed pond because of the narrowness of the buildable site in location to the water. The motion carried unanimously.

ADMINISTRATIVE BUSINESS:

Moved by Murray, supported by Figurski, to approve the minutes of the September 8, 1998 meeting, correcting the wording of the agenda for case 98-43 and noting the Harvey Zameck was the attorney representing the neighboring property owner and not the petitioner in case 98-44. The corrected minutes were approved unanimously.

The regular meeting for the Zoning Board of Appeals was adjourned at 9:30 p.m.

Respectfully submitted,

Paulette A. Skolarus
Genoa Township Clerk